

CV-13 24280

SUMMONS ISSUED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WILLIAM B. HUNTE
on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

MONARCH RECOVERY MANAGEMENT, INC.

Defendant.

CLASS ACTION COMPLAINT

Introduction

1. Plaintiff William B. Hunte seeks redress for the illegal practices of Monarch Recovery Management, Inc. concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA").

Parties

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a consumer as that term is defined by Section § 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant's principal place of business is located in Philadelphia, Pennsylvania.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ APR 22 2013 ★

LONG ISLAND OFFICE

VITALIANO, J.

REYES, JR, M.

6. Defendant is a "debt collector" as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

Jurisdiction and Venue

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

Allegations Particular to William B. Hunte

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. On or about December 3, 2012, Defendant sent the Plaintiff a collection letter seeking to collect a balance allegedly incurred for personal purposes.
11. Said letter stated in pertinent part: "This is to advise you that your account has been transferred to our office for collection by CITIBANK, N.A. As of the date of this letter you owe \$3869.97 The amount due on the day you pay may be greater as interest, late fees, and other charges may be added by the creditor. Hence, if you pay the total balance due shown above, an adjustment may be necessary after we receive your payment. You may call us at 1-800-220-0605 at any time to check your outstanding balance. If you choose to pay the balance in full, the creditor is willing to accept a settlement of 40% of the total balance due, which is ***\$1559.89*** as of the date of this letter. Please note that this settlement amount will change if the total balance due changes. The offer does not cancel nor override your dispute rights set forth below."

7. Said language is vague as to a mechanism for the consumer to determine exactly how much the debt will be on a date certain.
8. The Seventh Circuit in Miller v. McCalla suggested certain language giving the consumer the opportunity to call or write to find out the exact amount due.
12. Said language also threatens "late fees, and other charges" of which the Defendant does not engage.
13. In addition, the said letter does not provide a mechanism for the consumer to determine the exact amount of the total balance due and if the settlement amount will be in effect if the consumer pays the said \$1559.89
14. The said language leaves the Plaintiff unsure of the final amount of the debt; i.e. once she has paid the said amount, will this be the final amount or would she be subjected to more fees.
15. The least sophisticated consumer may be led to think that he is in default on the agreement.
16. Defendant's letter is in violation of 15 U.S.C. §§ 1692e(5) and 1692e(10) for engaging in deceptive practices.

AS AND FOR A FIRST CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of herself and the members of a class, as against the Defendant.

17. Plaintiff re-states, re-alleges, and incorporates herein by reference, paragraphs one (1) through sixteen (16) as if set forth fully in this cause of action.
18. This cause of action is brought on behalf of Plaintiff and the members of a class.

19. The class consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form as the letter sent to the Plaintiff on or about December 3, 2012; and (a) the collection letter was sent to a consumer seeking payment of a personal debt purportedly owed to CITIBANK, N.A.; and (b) the collection letter was not returned by the postal service as undelivered; (c) and the Plaintiff asserts that the letter contained violations of 15 U.S.C. §§ 1692e(5) and 1692e(10) for false threats of deceptive actions.
20. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:
 - (A) Based on the fact that a form collection letter is at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.
 - (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.
 - (C) The only individual issue is the identification of the consumers who receive such collection letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of Defendant.
 - (D) The claims of the Plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
 - (E) The Plaintiff will fairly and adequately represent the class members' interests. The Plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The Plaintiff's interests are consistent with those of the

members of the class.

21. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. § 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.
22. If the facts are discovered to be appropriate, the Plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.
23. Collection attempts, such as those made by the Defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

Violations of the Fair Debt Collection Practices Act

24. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
25. Because the Defendant violated of the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests that this Court enter judgment in her favor and against the Defendant and award damages as follows:

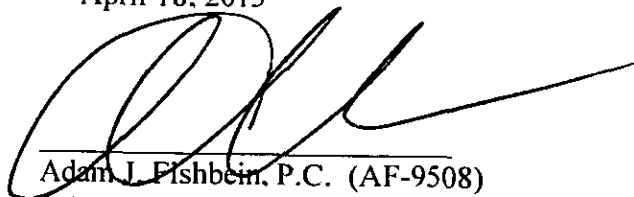
- (a) Statutory and actual damages provided under the FDCPA, 15 U.S.C. §

1692(k);

- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Cedarhurst, New York

April 18, 2013



Adam J. Fishbein, P.C. (AF-9508)

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Plaintiff requests trial by jury on all issues so triable.


Adam J. Fishbein (AF-9508)

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